IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1422 OF 2004

Akruti Nirman Limited ....Petitioners

Versus

State of Maharashtra and Ors. ..Respondents

Mr. Anil Mishra for the petitioners.
Mr. Pradeep Jadhav, Assistant Government Pleader, for respondent No.1.
Mrs. Deepa Chavan with Mr. C.J. Sawant for respondent No.2.
Mr. Shekhar Naphade for respondent No.3.
Mr. Joaquim Reis with Mr. J.S. Anand instructed by M/s. Anand & Associates for respondent No.4.
Mr. D.S. Sakhalkar with Mr.R.M. Yadav for respondent No.5.

CORAM: **DALVEER BHANDARI, C.J.** &
DR. D.Y. CHANDRACHUD,J.
DATE: **DECEMBER 21, 2004**.

P.C.

We have heard the learned counsel for the parties.

2. In this petition, there is a conflicting stand taken by two public authorities viz. Maharashtra Industrial Development

Corporation and the Slum Rehabilitation Authority. Admittedly, both these public authorities are limbs of the State.

3. In *Mahanagar Telephone Nigam Ltd.* vs. *Chairman, Central Board, Direct Taxes and another,* reported as AIR 2004 SC 2434, the Apex Court has clearly observed that dispute between two public undertakings must be decided by High Powered Committee constituted by the Government. The Apex Court in the said case has observed as under:

> "8.....it was not contemplated by the framers of the Constitution or C.P.C. that two departments of a State or Union of India and/or a department of the Government and a Public Sector Undertaking fight a litigation in a Court of law. Such a course is detrimental to public interest as it entails avoidable wastage of public money and time. These are all limbs of the Government and must act in co-ordination and not confrontation. The mechanism set up by this Court is not as suggested by Mr. Andhyarujina only to conciliate between the Government Departments. It is also set up for purposes of ensuring that frivolous disputes do not come before Courts without clearance from the High Powered committee. If it can, the High Powered Committee will resolve

> the dispute. If the dispute is not resolved the Committee would undoubtedly give clearance. However there could also be frivolous litigation proposed by a department of the Government or a Public Sector Undertaking. This could be prevented by the High Powered Committee. In such cases there is no question of resolving the dispute. The Committee only has to refuse permission to litigate. No right of the Department/Public Sector Undertaking is affected in such a case. The litigation being of a frivolous nature must not be brought to Court. To be remembered that in almost all cases one or the other party will not be happy with the decision of the High Powered Committee. The dissatisfied party will always claim that its rights are affected, when in fact, no right is affected. The Committee is constituted of highly placed Officers of the Government, who do not have an interest in the dispute, it is thus expected that their decision will be fair and honest. Even if the Department/Public Sector Undertaking finds the decision unpalatable, discipline requires that they abide by it. Otherwise the whole purpose of this exercise will be lost and every party against whom the decision is given will claim that they have been wronged and that their rights are affected. This should not be allowed to be done."

4. In view of the authoritative pronouncement of the Apex Court, in the facts and circumstances of this case, we deem it imperative that this matter be referred to the Chief Secretary,

State of Maharashtra. He is directed to constitute a High Powered Committee within two weeks from today and the High Powered Committee is directed to consider this writ petition as the case of respondent Nos. 2 and 3 and adjudicate the same after hearing the parties. In the facts and circumstances of this case, we direct the High Powered Committee to resolve the disputes between respondent Nos.2 and 3 as expeditiously as possible, in any event within two months from today. No further directions are necessary in this petition. This petition is accordingly disposed of.

The parties to appear before the High Powered Committee on 3rd January, 2005.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.